

AO 91 (Rev. 5/85) Criminal Complaint

**United States District Court****NORTHERN DISTRICT OF CALIFORNIA****UNITED STATES OF AMERICA****CRIMINAL COMPLAINT**

v.

**ORIGINAL**NYENDAK WANGDEN  
and  
BRIHANNALA MORGAN**FILED**

AUG 6 2008

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

CASE NUMBER: 3:08-70515-BZ

I, the undersigned complainant being duly sworn, state the following is true and correct to the best of my knowledge and belief. On or about August 6, 2008 in San Francisco county, in the Northern District of California, the defendant(s) did, willfully with intent to intimidate, coerce, threaten, or harass—(1) forcibly thrusts any part of himself or any object within or upon that portion of any building or premises located within the United States, which portion is used or occupied for official business or for diplomatic, consular, or residential purposes by—(A) a foreign government, including such use as a mission to an international organization.

in violation of Title 18 United States Code, Section 970 (b)(1)(A).

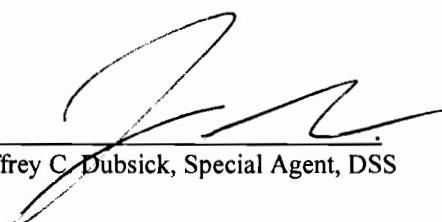
I further state that I am a Special Agent and that this complaint is based upon the following facts:

See affidavit of Jeffrey C. Dubnick, attached hereto and incorporated by reference

Maximum penalties: 6 months imprisonment, one year supervised release, \$5000 fine, and \$10 special assessment.

Continued on the attached sheet and made a part here of:  Yes  No

Approved  
As to Form: Elise Becker  
AUSA Elise Becker



Jeffrey C. Dubnick, Special Agent, DSS

Sworn to before me and subscribed in my presence,

August 6, 2008  
Date

at

San Francisco, California  
City and State

BERNARD ZIMMERMAN, U.S. Magistrate Judge  
Name and Title of Judicial Officer



Signature of Judicial Officer

UNITED STATES DISTRICT COURT )

) ss. AFFIDAVIT

NORTHERN DISTRICT OF CALIFORNIA )

AFFIDAVIT IN SUPPORT OF A CRIMINAL COMPLAINT  
CHARGING BRIHANNALA MORGAN and NYENDAK WANGDEN  
WITH VIOLATING 18 U.S.C. 970 (b)(1)(A),  
FORCIBLY THRUSTING THEMSELVES ONTO A FOREIGN CONSULATE

I, Jeffrey C. Dubnick, do swear and affirm as follows,

**Affiant Background**

1. I am a Supervisory Special Agent employed by the Diplomatic Security Service (DSS) which is an agency of the United States State Department. DSS Special Agents are empowered under Title 22 U.S.C. § 2709 to investigate threats against resident foreign diplomats, as well as to apply for and serve federal search warrants.

2. I have a bachelor's degree from the University of California and am a graduate of the Federal Law Enforcement Training Center's Criminal Investigator Training Program. I have been employed by DSS since December 2004, and have received and receive on an ongoing basis, training in the laws, rules and regulations concerning the Vienna Convention. My previous investigations have resulted in the federal charging of two persons and the conviction of one person for threatening resident foreign diplomats in this District and before this Court.

**Purpose**

3. I am currently conducting an investigation of BRIHANNALA MORGAN and NYENDAK WANGDEN for Forcibly Thrusting Themselves onto a Foreign Consulate, a violation of 18 U.S.C. 970 (b)(1)(A). It is alleged that BRIHANNALA MORGAN and NYENDAK WANGDEN trespassed onto the roof of the Chinese Consulate with protest signs on August 6, 2008.

**Relevant Statutes**

4. The United States became a party to the Vienna Convention on Consular Relations on or about 1963. This convention, in short, governs the exchange of diplomats (or officers authorized to represent a country), and prohibits interference into their business, affairs and premises. To meet its Vienna Convention obligations, the United States subsequently enacted 18 U.S.C. § 970 (b)(1)(A), which states in sum, that

Whoever Forceably Thrusts Themselves onto a Foreign Consulate shall be fined or imprisoned for not more than six months.

5. I know from my training and experience and from my review of State Department records that the Chinese Consulate located in San Francisco, CA, and the Northern District of California, is certified and recognized by the State Department as an official place of business for the Chinese government.

#### **Facts and Evidence Concerning Attempted Harassment of Chinese Diplomats**

6. On August 6, 2008, I interviewed San Francisco Police Officers Bunnell and Springer. In sum, both told me they observed BRIHANNALA MORGAN and NYENDAK WANGDEN on the roof of the Chinese Consulate, which is located at the corner Geary and Laguna in San Francisco and the Northern District of California. The Chinese Consulate occupies the entire building of 1450 Laguna. They both told me that BRIHANNALA MORGAN and NYENDAK WANGDEN had climbing gear, such as ropes, and protest signs on the roof of the Chinese Consulate. They both told me that NYENDAK WANGDEN was hanging by a rope from the roof of the Consulate with a sign. The sign read "Stop the Killing in Tibet." They both told me that BRIHANNALA MORGAN was on the top of the roof, while NYENDAK WANGDEN was hanging by the rope with the sign. Officer Bunnell also told me he detained BRIHANNALA MORGAN after Chinese diplomats seized her and brought her off of their roof.

7. On August 6, 2008, I interviewed BRIHANNALA MORGAN and advised her of her Miranda Rights. When asked if she wanted to speak with me, MORGAN stated she would speak of events of the day without a lawyer, but would not speak of any events prior. MORGAN then began a monologue without my direction or questioning and provided the following information, in sum and in substance: She and NYENDAK WANGDEN are trained climbers. They went onto the roof of the Chinese Consulate. She handled roping equipment for NYENDAK WANGDEN, and lowered NYENDAK WANGDEN from the roof. NYENDAK WANGDEN was holding a sign. She was seized by an Asian man and woman, and was brought off the roof and handed to San Francisco Police Officers. Their purpose was to take planned action of civil disobedience for a political purpose. They did not have permission to be on the roof. I observed BRIHANNALA MORGAN with a helmet and rope, which I seized as evidence.

8. On August 6, 2008, NYENDAK WANGDEN was interviewed by DSS Special Agent Victor Ciapas. WANGDEN told Special Agent Ciapas, in sum: That she was on the roof of the Chinese Consulate to stage a political protest.

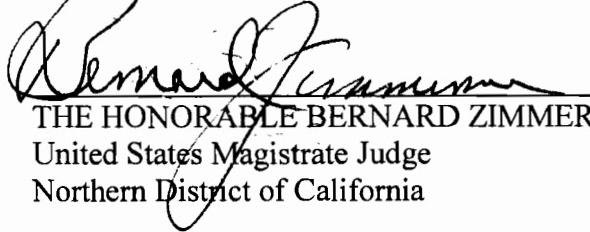
9. On August 6, 2008, I interviewed San Francisco Police Officer Troy Peele. Officer Peele told me he seized as evidence, in sum, a ladder, a protest sign, a flag, and other climbing gear from the roof of the Chinese Consulate.

**Conclusion**

10. Based on the information and evidence detailed in this Affidavit, I believe probable cause exists that BRIHANNALA MORGAN and NYENDAK WANGDEN Forcibly Thrust Themselves onto a Foreign Consulate, a violation of 18 U.S.C. 970 (b)(1)(A), when they trespassed onto the roof of the Chinese Consulate with protest signs. As such, I respectfully request warrants for their arrest.

  
Jeffrey C. Dubnick  
Supervisory Special Agent  
Diplomatic Security Service  
San Francisco, CA

SUBSCRIBED AND SWORN BEFORE ME  
ON August 6, 2008

  
THE HONORABLE BERNARD ZIMMERMAN  
United States Magistrate Judge  
Northern District of California